

APPENDIX B

EXEMPTIONS APPLICABLE TO DIVISION 4.5 RECORDS - Records which contain information provided to the Department pursuant to Division 4.5 of Title 22, CCR are subject to both the Public Records Act and to RCRA §3007 (b) and EPA regulations set forth in 40 CFR Part 2, as applicable. With respect to Division 4.5 records, exemptions available under RCRA §3007 (b), and 40 CFR Part 2 parallel those in the California Public Records Act. The Office of Legal Counsel should be consulted where there is a question regarding the applicability of an exemption to a particular document. Division 4.5 records are subject to the following additional categorical exemptions:

1. Classified Documents - This exemption applies to national security documents or documents that have been classified by a federal Executive Order.
2. Personnel Rules - Documents that relate to the Department's personnel rules and practices.
3. Statutory Exemptions - Includes records which are exempt by statute provided that (a) the statute requires that the matters be withheld from the public, or (b) the statute establishes specific criteria for withholding or refers to particular types of matter which is to be withheld.
4. Confidential Business Information (Trade Secrets) - This exemption protects trade secrets and other confidential business information which is privileged from disclosure. It is the responsibility of the business to assert a claim under this exemption at the time the records are provided to the Department. The Department will follow the same procedure for trade secrets outlined in APPENDIX A, paragraph 1.C. for records claimed to be confidential business information.
5. Departmental Memos - Memoranda and letters written for departmental use or to another department are exempt from disclosure if they are the sort of records that would not be disclosable unless that party was in litigation with the Department. This exemption encompasses documents which are normally privileged under state and federal civil discovery rules. Such privileges include deliberative process privilege, attorney work product privilege and the attorney client privilege.
6. Personnel Files - Personnel records and medical files are exempt from disclosure if the disclosure would

constitute an unwarranted invasion of a person's privacy rights.

7. Law Enforcement Records - Records that are compiled for law enforcement purposes are exempt from disclosure if any of the following conditions are satisfied:
- (a) disclosure could reasonably be expected to interfere with any enforcement proceedings;
 - (b) disclosure would prevent someone from receiving a fair trial or hearing;
 - (c) disclosure would invade a person's right to privacy;
 - (d) disclosure would reveal a confidential source's identity.
 - (e) disclosure would reveal investigative techniques or guidelines, or
 - (f) disclosure might endanger someone's life or physical safety.
8. Geological Information - Documents containing geological and geophysical information and data about wells are exempt from disclosure.